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A Limited Liability Law Partnership

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Attorneys for Plaintiff PACIFIC STOCK, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

PACIFIC STOCK, INC.,	)	CIVIL NO. CV04-00725 JMS/LEK
	)	(Copyright Infringement)
Plaintiff,)	
	)	PLAINTIFF PACIFIC STOCK,
vs.	)	INC.'S REPLY TO DECLARATION
	)	OF COUNSEL SIDNEY MICHAEL
SOLTUR, INC., a Hawaii	)	QUINTAL FILED MARCH 9, 2006;
corporation; GIGI FIORENTINO,	)	DECLARATION OF J. STEPHEN
individually; LUIS ZANOTTA,	)	STREET; CERTIFICATE OF
individually,	)	SERVICE
)	
Defendants.	)	<u>Hearing:</u>
	)	Date: March 7, 2006
	)	Time: 9:30 a.m.
	)	Magistrate Judge Leslie E. Kobayashi
)	
	)	<u>TRIAL:</u>
	)	Date: April 18, 2006
	)	Time: 9:00 a.m.
	)	Judge: J. Michael Seabright

**PLAINTIFF PACIFIC STOCK, INC.'S REPLY TO DECLARATION
OF COUNSEL SIDNEY MICHAEL QUINTAL FILED MARCH 9, 2006**

Defendant's counsel has filed a Declaration purporting to respond to:

1) Plaintiff's Motion for Sanctions Against Defendants Soltur, Inc.; Gigi Fiorentino, Individually; and Luis Zanotta, Individually For Failure to Respond to Discovery, filed February 2, 2006, 2) the Order to Show Cause dated February 3, 2006, and 3) Judge Seabright's February 14, 2006 Scheduling Order which required Defendants to file a Declaration on or before March 10, 2006, complying with Paragraph III.C. of his November 7, 2005 Order Granting In Part and Denying In Part Plaintiff's Motion for Summary Judgment. The Declaration also represents that Defendant Luis Zanotta died on February 24, 2006.

The Declaration does not adequately respond to either the motion, the order to show cause, or Judge Seabright's order.

A. Declarant Has Offered No Explanation for Defendants Soltur, Inc.'s and Gigi Fiorentino' Failure to Respond to Discovery

Declarant acknowledged that Judge Seabright ordered that all Defendants comply with the outstanding discovery requests on or before March 7, 2006. Declarant then asserts under oath that "Judge Seabright has ruled on and disposed of those motions" (Quintal Dec. at ¶6). The record speaks for itself, that

there was no disposition by Judge Seabright of the pending Motion for Sanctions and the Order To Show Cause set to be heard on March 7, 2006. Judge Seabright ordered that Defendants respond to those discovery requests by March 7, 2006. In any event, Declarant does not assert that any of his clients complied with Judge Seabright's order compelling responses to the discovery requests, and no responses of any kind have been received by Plaintiff. See Declaration of J. Stephen Street. The motion for sanctions is certainly not "moot" as argued by Defendants' counsel, given Defendants' failure to respond to any discovery requests.

B. Defendants Provide No Justification For the Failure to Comply with the Court's Order of June 13, 2005

Declarant represents that Soltur, Inc. is now insolvent, without any substantiation of this assertion. Declarant also represented that Defendant Gigi Fiorentino "is out of the United States looking for employment," however, the e-mail attached as exhibits to his declaration indicate that she was in Honolulu in February until Sunday evening, February 19, 2006 and that she would be back in the office in Honolulu on March 9, 2006. Declarant provides no justification for Defendant's failure to comply with the orders of the Court.

C. The Declaration Does Not Comply with Judge Seabright's Order for Submission of an Affidavit in Compliance With the Terms of Paragraph III.C.3 of the November 7, 2005 Order

The Declaration goes on to suggest at Paragraph 11 that it was intended to be the affidavit required at "Paragraph III.C.3 of the November 7, 2006 [sic] and the February 14, 2006 Orders by Judge Seabright." At paragraph 12, the Declarant states his "belief" based on undescribed "investigation and interviews" of unidentified "living persons associated with Defendant Soltur, Inc." that Defendant Soltur, Inc. has complied with the Court's orders granting injunctive relief. Paragraph III.C.3 of the November 7, 2005 Order Granting In Part And Denying In Part Plaintiff's Motion for Summary Judgment required Soltur, Inc. to:

Destroy any and all goods, advertising materials, circulars, newsletters, signs, and promotional items bearing the images; delete any and all of its files, electronic or otherwise, containing the images; deliver to Pacific Stock any and all color separations used by Soltur in copying the images; and provide the court and Pacific Stock with a sworn affidavit listing the goods, advertising materials, circulars, newsletters, signs, promotional items, and files that were destroyed or deleted pursuant to this order and confirming that each item was in fact destroyed or deleted. The court orders Soltur to submit the affidavit within 30 days of this order. (emphasis added)

The Declaration of Counsel falls far short of providing the required “sworn affidavit listing the ... (items) that were destroyed or deleted ... and confirming that each item was in fact destroyed or deleted .” Defendants’ Declaration of Counsel demonstrates nothing more than cavalier disregard for purposes and requirements of the Orders of the Court in this matter.

Plaintiff’s Motion for Sanctions should be granted.

DATED: Honolulu, Hawaii, March 15, 2006.



J. STEPHEN STREET
Attorney for Plaintiff
PACIFIC STOCK, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PACIFIC STOCK, INC.,	)	CIVIL NO. CV04-00725 JMS/LEK
	)	(Copyright Infringement)
Plaintiff,)	
	)	DECLARATION OF
vs.	)	J. STEPHEN STREET
)	
SOLTUR, INC., a Hawaii)	
corporation; GIGI FIORENTINO,)	
individually; LUIS ZANOTTA,)	
individually,)	
)	
Defendants.)	
)	
)	
)	

DECLARATION OF J. STEPHEN STREET

I, J. Stephen Street, do hereby declare and state under penalty of perjury as follows:

1. I am an attorney licensed to practice law in the State of Hawaii.
2. I am an attorney with the law firm of Rush Moore LLP

A Limited Liability Law Partnership, and am counsel for Plaintiff PACIFIC STOCK, INC. ("Plaintiff") in this matter.

3. I have personal knowledge of and am competent to testify to the matters contained in this Declaration in support of Plaintiff's Reply to

Declaration of Sidney Michael Quintal filed March 9, 2006.

4. At the pretrial conference before Judge J. Michael Seabright on February 8, 2006, and pursuant to the Amended Pretrial Scheduling Order entered on February 14, 2006, Judge Seabright ordered Defendants Soltur, Inc., Gigi Fiorentino and Luis Zanotta to comply with the discovery requests served upon them by Plaintiff on December 15, 2005, on or before March 7, 2006. The discovery requests consisted of a total of 6 requests comprised of requests to each of the three defendants for answers to interrogatories and for production of documents.

5. As of close of business yesterday, March 14, 2006 (seven days past the deadline set by Judge Seabright), I have not received any responses to any of the discovery requests from any of the defendants.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawaii, March 15, 2006.


J. STEPHEN STREET

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PACIFIC STOCK, INC.,)	CIVIL NO. CV04-00725 JMS/LEK
)	(Copyright Infringement)
Plaintiff,)	
)	CERTIFICATE OF SERVICE
vs.)	
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SOLTUR, INC., a Hawaii)	
corporation; GIGI FIORENTINO,)	
individually; LUIS ZANOTTA,)	
individually,)	
)	
Defendants.)	
_____)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was
duly served upon the following party by U.S. Mail, postage prepaid, addressed to
him at his last known address, on the date indicated below:

SIDNEY MICHAEL QUINTAL, ESQ.
1600 Ala Moana Boulevard, #4000
Honolulu, Hawaii 96815
Attorney for Defendants SOLTUR, INC.,
GIGI FIORENTINO, and LUIS ZANOTTA

DATED: Honolulu, Hawaii, March 15, 2006.



J. STEPHEN STREET
Attorneys for Plaintiff
PACIFIC STOCK, INC.